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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

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ALAN BLATER, Clerk of the Court
BY *E. Blumberg*
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8 Attorneys for Plaintiff
9 Orange County Water District

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 IN AND FOR THE COUNTY OF ORANGE

12 ORANGE COUNTY WATER DISTRICT,

13 Plaintiff,

14 v.

15 NORTHROP CORPORATION; NORTHROP
16 GRUMMAN CORPORATION; AMERICAN
17 ELECTRONICS, INC.; MAG AEROSPACE
18 INDUSTRIES, INC.; GULTON
19 INDUSTRIES, INC.; MARK IV
20 INDUSTRIES, INC.; EDO CORPORATION;
21 AEROJET-GENERAL CORPORATION;
22 MOORE BUSINESS FORMS, INC.; AC
23 PRODUCTS, INC.; FULLERTON
24 MANUFACTURING COMPANY;
25 FULLERTON BUSINESS PARK LLC; and
26 DOES 1 through 400, inclusive,

27 Defendants.

CASE NO. 04CC00715

**FIRST AMENDED
COMPLAINT FOR DAMAGES
AND OTHER RELIEF
(VOC CONTAMINATION):**
(1) ORANGE COUNTY WATER
DISTRICT ACT;
(2) CALIFORNIA SUPERFUND ACT;
(3) NEGLIGENCE;
(4) NUISANCE;
(5) TRESPASS; AND
(6) DECLARATORY RELIEF

28 Plaintiff Orange County Water District (the District) alleges:

SUMMARY

1. By this action the District seeks to protect the groundwater resources of Northern Orange County from toxic pollution. The California State Legislature has charged the District with preventing pollution and contamination of the groundwater basin and water supply within the District. The groundwater resources managed and replenished by the District supply over

1 fifty percent of the water needs to more than two million residents in the cities of Anaheim,
2 Buena Park, Cypress, Costa Mesa, Fountain Valley, Fullerton, Garden Grove, Huntington Beach,
3 Irvine, La Palma, Los Alamitos, Newport Beach, Orange, Placentia, Santa Ana, Seal Beach,
4 Stanton, Tustin, Villa Park, Westminster, and Yorba Linda. The District possesses rights to draw
5 water from, and valuable rights to, inter alia, recharge and store water in, one or more
6 contaminated local aquifers, including but not necessarily limited to, aquifers within the
7 groundwater basin. The District's interest in the extraction of groundwater resources of the
8 contaminated aquifer(s), and its valuable interests in recharge and storage capacity in the
9 contaminated aquifers, inter alia, is/are natural resource(s) and/or protectable interests in a
10 natural resource.

11 2. The District files this lawsuit to recover compensatory and all other damages,
12 including all necessary funds to investigate, monitor, remediate, abate, or contain contamination
13 of groundwater within the District from volatile organic chemicals (VOCs); to protect the quality
14 of the public water resources of the District; to prevent pollution or contamination of water
15 supplies; and to assure that the responsible parties -- and not the District or the public -- bear the
16 expense of remediating the contamination caused by defendants' activities.

17 3. The properties and groundwater resources that are the subject of this action are located
18 in the cities of Anaheim, Fullerton, and other locations within the District's service area; the
19 releases of VOC's and hazardous substances into the environment and related wrongful acts
20 alleged herein took place at said properties, injuring and affecting said groundwater resources.
21 Venue is therefore proper in this Court.

22 PLAINTIFF

23 4. The District was created by the Legislature in 1933 to maintain, protect, replenish, and
24 manage groundwater resources. The Legislature expressly granted the District the right, and
25 duty, among other things, to conduct any investigations of the quality of the groundwater within
26 the District to determine whether those waters are contaminated or polluted, and to perform any
27 necessary investigation, cleanup, abatement, or remedial work to prevent, abate, or contain any
28 threatened or existing contamination or pollution of the surface or groundwater of the District,

1 and recover the costs of any such activities from the persons responsible for the contamination or
2 threatened contamination. (Cal. Water Code, Appendix 40-8.) The District has suffered injury in
3 fact, including expending funds necessary to investigate, clean up, abate, and/or remediate the
4 contamination caused by defendants within the past three years.

5 5. The Legislature has also expressly granted the District the right, and duty, among other
6 things, to litigate in order to protect groundwater resources and to represent the rights of water
7 users within its territory. In particular, the District has the right, and duty, to commence,
8 maintain, intervene in and compromise any and all actions and proceedings to prevent: (a)
9 interference with water or water rights used or useful to lands within the District; (b) diminution
10 of the quantity or pollution or contamination of the water supply of the district, or to prevent any
11 interference with the water or water rights used or useful in the district which may endanger or
12 damage the inhabitants, lands or use of water in the district. (Cal. Water Code, Appendix 40-2.)
13 The District owns land overlying groundwater at various locations within the District and has
14 water rights therein. Water users within the District pump over 300,000 acre-feet of groundwater
15 each year. The District and the water users it represents have suffered injury in fact as a result of
16 contamination and threat of contamination in water supply wells in the District's groundwater
17 resources, as set forth in this complaint.

18 6. The District has protectable legal interests in the groundwater within the District's
19 territory, including the right to extract groundwater, replenish the aquifer, and to treat waste
20 water. These interests have been injured as a result of contamination from defendants' facilities.
21 The relief sought in this action will remedy the injury suffered by the District.

22 DEFENDANTS AND SITE HISTORY

23 7. When reference in this complaint is made to any act or omission of the defendants, it
24 shall be deemed to mean that the officers, directors, agents, employees, or representatives of the
25 defendants committed or authorized such act or omission, or failed to adequately supervise or
26 properly control or direct their employees while engaged in the management, direction, operation
27 or control of the affairs of defendants, and did so while acting within the scope of their
28 employment or agency.

1 8. Defendant Northrop Corporation (hereinafter "Northrop") is a Delaware corporation
2 with its principle place of business in Hawthorne, California. Northrop acquired a site located at
3 500 East Orangethorpe Avenue, Anaheim, California, in approximately 1951. On various dates
4 since 1951, Northrop, and DOES 1 through 10, inclusive, as owners and operators of the site,
5 discharged, dumped, and disposed hazardous wastes associated with its vapor degreasing and
6 anodizing process tanks, including, but not limited to: TCE; PCE; 1, 1, 1-TCA; 1, 1-DCA; 1, 2-
7 DCA; and 1, 1, 2-TCA. During the same period, Northrop also operated a "disposal pit" for
8 hazardous waste on the site.

9 9. Defendant Northrop Grumman Corporation (hereinafter "Northrop Grumman") is a
10 Delaware corporation with its principle place of business in El Segundo, California. Northrop
11 Grumman's predecessor-in-interest, Northrop, leased and operated a site known as the Northrop
12 Y-12 facility at 301 East Orangethorpe Avenue, Anaheim, California, from 1962 until 1992.
13 Northrop Grumman purchased the site in 1992. On various dates since 1951, Northrop, Northrop
14 Grumman, and DOES 11 through 20, inclusive, as owners and operators of the site, discharged,
15 dumped, and disposed hazardous wastes associated with its vapor degreasing operations,
16 including, but not limited to: TCE; PCE; 1, 1-DCE; and 1, 1, 1-TCA.

17 10. Defendant American Electronics, Inc. (hereinafter "AEI") is a California corporation
18 with its principle place of business in Fullerton, California. AEI owned and operated a site
19 located at 1600 East Valencia Drive, Fullerton, California, commencing in approximately 1967.
20 AEI and DOES 21 through 30, inclusive, as owners and operators of the site, used solvents in
21 degreasing operations and maintained a chemical storage area which caused releases of
22 hazardous waste on the site, including PCE, TCE, and 1,1, 1-TCA.

23 11. Defendant MAG Aerospace Industries, Inc. (hereinafter "MAG") is a Delaware
24 corporation with its principle place of business in Compton, California. MAG owned and
25 operated a site located at 1300 East Valencia Drive, Fullerton, California. MAG and DOES 31
26 through 40, inclusive, as owners and operators of the site, operated a PCE degreaser, a dip tank,
27 and a chemical storage area which released hazardous wastes on the site, including PCE, TCE, 1,
28 1, 1-TCA, 1, 1-DCE, and cis-1, 2-DCE.

1 12. Defendant Gulton Industries, Inc. (hereinafter "Gulton") is a Delaware corporation
2 with its principle place of business in Fullerton, California. From approximately 1960 to 1982,
3 Gulton manufactured transducers at 300 South College Boulevard, Fullerton, California, and an
4 adjacent lot known as 2424 East Fender Avenue. In 1982, Gulton subdivided the property and
5 leased a portion of the premises to defendant EDO Corporation. Plaintiff is informed that EDO
6 Western Corporation (DOE 43) also leased this property. Plaintiff is informed that in 1986,
7 Mark IV Industries, Inc., acquired Gulton and owned and operated a business at 300 South
8 College Boulevard. In 1990, Gulton reacquired the site at 300 South College Boulevard and
9 agreed to assume any liability associated with the cleanup of the property. Gulton Industries, Inc.
10 changed its name to Gulton, Inc. (DOE 41) and was later acquired by and merged into defendant
11 Telex Communications Holdings, Inc. (DOE 44) (hereinafter "Telex"). Telex is a Delaware
12 corporation with its principle place of business in Burnsville, Minnesota and doing business in
13 California. Gulton and DOES 41 through 50, inclusive, as owners and operators of the site, used
14 TCE and PCE in manufacturing operations and stored solvent drums on the site which released
15 hazardous waste at the site.

16 13. Defendant CBS Broadcasting, Inc., successor in interest to CBS, Inc. and formerly
17 known as Colombia Broadcasting Systems, Incorporated, which, at all times relevant herein, did
18 business as Fender Musical Instruments (DOE 45) (hereinafter "Fender") occupied the facility
19 located at 2424 East Fender Avenue. Fender released hazardous wastes, including PCE, at the
20 site.

21 14. Defendant Mark IV Industries, Inc. (hereinafter "Mark IV") is a Delaware
22 corporation with its principle place of business in Amherst, New York, and doing business in
23 California. Mark IV owned Gulton Industries, Inc., from approximately 1986 to 1999.

24 15. Defendant EDO Corporation is a New York corporation with its principle place of
25 business in New York, New York, and doing business in California.

26 16. Defendant EDO Western Corporation (DOE 43) is a Utah corporation with its
27 principle place of business in Salt Lake City, Utah, and doing business in California.
28

1 17. Defendant AeroJet-General Corporation (hereinafter "Aerojet"), is an Ohio
2 corporation with its principle place of business in Rancho Cordova, California, and doing
3 business in California. Aerojet conducted metal processing, ordnance manufacturing, and other
4 operations at 601 South Placentia, in Fullerton, California.. Aerojet and DOES 51 through 60,
5 inclusive, as owners and operators of the site, used TCE and PCE in manufacturing operations
6 and stored solvent drums on the site which released hazardous waste at the site.

7 18. Defendant Moore Business Forms, Inc. is a Delaware corporation with its principal
8 place of business in Bannockburn, Illinois, and doing business in California. Defendant Moore
9 Business Forms, Inc. is currently known as Moore Wallace North America, Inc., DOE 61,
10 (individually and formerly known as Moore Business Forms, Inc. and DOE 42) (hereinafter
11 collectively referred to as "Moore") is a Delaware corporation with its principle place of business
12 in Bannockburn, Illinois, and doing business in California. Moore owns and operates a site at
13 800 South Raymond in Fullerton, California. From approximately 1954 to 1985, Moore used
14 VOC's at the site in the conduct of Moore's business, including but not limited to printing credit
15 card forms, manufacturing compacted paper, and manufacturing wax coated logs. Moore and
16 DOES 61 through 70, released hazardous wastes, including PCE and TCE, at the site.

17 19. Defendant AC Products, Inc. (hereinafter "AC Products") is a California corporation
18 with its principle place of business in Placentia, California. AC Products owns and operates a
19 facility located at 172 La Jolla Street in Placentia, California. AC Products activities at this
20 location include manufacturing temporary protective coatings for nonporous surfaces. AC
21 Products and DOES 71 through 80, inclusive, as owners and operators of the site, released
22 hazardous wastes, including PCE, at the site.

23 20. Defendant Fullerton Manufacturing Company (hereinafter "Fullerton
24 Manufacturing") is a California corporation with its principle place of business in Jamaica Plain,
25 Massachusetts. Fullerton Manufacturing owns and operates a facility at 311 South Highland in
26 Fullerton, California. Fullerton Manufacturing and DOES 81 through 90, inclusive, as owners
27 and operators of the site, released hazardous wastes, including TCE, at the site.

21. DOES 91 through 100, inclusive owned and operated a facility at 1551 E. Orangethorpe Avenue, in Fullerton, California, where they released hazardous waste, including PCE and TCE.

22. The District is ignorant of the true names and/or capacities of the defendants sued herein under the fictitious names DOES 1 through 400, inclusive. The defendants named above, and DOES 1 through 400 inclusive, and each of them: (1) owned and/or operated a business which used volatile organic chemicals which have been released into the subsurface; (2) were legally responsible for, and committed one or more of the tortious and wrongful acts alleged in this complaint; and (3) in doing the tortious and wrongful acts alleged in complaint, acted in the capacity of aider, abetter, joint-venturer, agent, principle, successor-in-interest, surviving corporation, controller, alter ego, licensor, patent holder, and/or indemnitor of one or more of the remaining named and/or DOE defendants.

CHEMICALS OF CONCERN AND RELEVANT OPERATIONS

23. This action concerns certain volatile organic chemicals (VOCs), which are typically used as solvents, degreasers, and for other industrial purposes. As used in this complaint, volatile organic chemicals and their degradation products include, trichloroethylene (TCE), tetrachloroethylen (a.k.a. perchloroethylene) (PCE), 1, 1-dichloroethylene (1, 1-DCE), 1, 2-dichloroethane (1, 2-DCA), 1,4 dioxane (1-4D), 1, 1, 1-trichloroethane (1, 1, 1-TCA), 1, 1, 2-trichloroethane (1, 1, 2-TCA), 1,2-3 trichloropropane (TCP), 1, 1-dichloroethane (1, 1-DCA), methylene chloride, trans-1, 2,-dichloroethylene (trans-1, 2-DCE) and cis-1, 2-dichloroethylene (cis-1,2-DCE) (hereinafter collectively referred to as VOCs.).

24. PCE and TCE are toxic organic compounds which have been used as cleaning solvents. In soil, PCE can be transformed into TCE, vinylchloride, and 1, 1, 1-trichloroethane (TCA).

25. TCP is an unnecessary contaminant present in certain cleaning solvents.

26. The State of California has determined that each of the VOC's named in this complaint is a "hazardous waste" within the definition of the California Superfund Act due to toxicity and other characteristics. These VOC's, and each of them, readily dissolve in water,

1 spread through permeable and semi-permeable soils down into and through plumes in
2 groundwater, and require expensive remediation technologies to remove or reduce to below
3 governmentally-established limits.

4 27. Defendants' historical, current and ongoing releases and disposal of significant
5 quantities of hazardous substances and wastes, at various sites and facilities within the area, have
6 caused the contamination alleged in this Complaint. VOC's in the soil and groundwater, at,
7 under, and emanating from, the sites pose an imminent and substantial threat to public health,
8 natural resources and the environment.

9 28. This complaint does not allege any cause of action or claim for relief under any
10 federal statute, regulation, or law.

11 **FIRST CAUSE OF ACTION**

12 **(Orange County Water District Act – Against All Defendants)**

13 29. The District refers to paragraphs 1 through 26 above, and by this reference
14 incorporates them as though set forth in full.

15 30. The Orange County Water District Act, California Water Code Appendix 40-1 et.
16 seq., charges the District with both the responsibility and the authority to investigate the sources
17 of contamination and potential contamination within the basin and to pursue legal remedies,
18 including cost recovery, against entities causing or threatening to cause contamination. The
19 District's Board has determined that investigation and remedial work is required by the
20 magnitude of VOC contamination, as described in this Complaint, and that prompt action is
21 needed to prevent, abate, and contain threatened and existing contamination. The Board has
22 authorized the expenditures of funds to conduct such investigation and remediation, and has
23 authorized action to recover all costs and damages associated with such contamination.

24 31. Defendants, and each of them, within the past three years have caused and are
25 causing the District to conduct investigations of the quality of the groundwater within the District
26 to determine whether those waters are contaminated or polluted with toxic substances, at
27 substantial cost to the District in an amount to be proved at trial.

28 32. Defendants, and each of them, on various dates within the past three years have

1 caused, are causing, and will cause the District to perform cleanup, abatement, and/or remedial
2 work needed to prevent, abate, and/or contain threatened or existing contamination of, or
3 pollution to, the groundwater of the District, all at substantial cost to the District in an amount to
4 be proved at trial.

5 33. Defendants, and each of them, are causing and/or threatening to cause contamination
6 and pollution of the basin. As a direct and proximate result of the acts and omissions of the
7 defendants alleged in this complaint, the District must initiate a remedial program to assess,
8 evaluate, investigate, monitor, abate, clean up, correct, contain, and/or take other necessary
9 remedial action, all at significant expense, cost, loss, and damage in amounts to be proved at
10 trial. Such costs include, but are not limited to, costs incurred to monitor, assess and evaluate the
11 hazardous substances release; costs of removal and disposal of the hazardous substance; costs to
12 remedy permanently the hazardous substance release, including, but not limited to, the storage,
13 confinement, and cleanup of hazardous substances, and any other action necessary to protect
14 public health, welfare, and the environment. Plaintiff further seeks, without limitation, recovery
15 of damages for injury to, destruction of, and/or loss of its interests in the one or more
16 contaminated aquifers and its water and natural resources, recharge and storage, usage and
17 capacity, inter alia, suffered as a result of said contamination.

18 34. As a direct and proximate result of the acts and omissions of the defendants alleged
19 in this complaint, the District will incur substantially increased expenses, all to the District's
20 damage, in an amount within the jurisdiction of this court. The District has and will incur costs
21 and attorneys' fees in prosecuting this action. The District is entitled to recover all such
22 damages, together with court costs and reasonable attorneys' fees, in this action.

23 35. As a direct and proximate result of defendants' conduct, the District is entitled to
24 recover all past, present, and future response costs, together with interest from defendants, as
25 well as damages for injury, loss and damages to natural resources.

26 **SECOND CAUSE OF ACTION**

27 **(California Superfund Act – Against All Defendants)**

28 36. The District refers to paragraphs 1 through 33 above, and by this reference

1 incorporates them as though set forth in full.

2 37. Section 25323.5(a) of the California Health and Safety Code defines a person who is
3 liable under the Carpenter-Presley-Tanner Hazardous Substance Account Act ("California
4 Superfund"). Defendants, and each of them, are owners and/or operators of facilities which have
5 released and are releasing hazardous wastes as alleged herein and are "responsible parties" under
6 California Superfund and liable to the District for response costs and other damages.

7 38. The contaminants that defendants disposed of and released into the groundwater
8 supply are specifically listed and designated as "hazardous substances" within the meaning of
9 California Health and Safety Code section 25316.

10 39. As a proximate result of defendants' release and continuing discharge of hazardous
11 substances into the environment, including the groundwater supply, the District has had to incur
12 necessary response costs, including attorneys' fees and expert fees, for which defendants are
13 strictly liable pursuant to California Health and Safety Code section 25363. Plaintiff seeks
14 recovery of response costs and abatement expenses plaintiff has incurred or will incur in
15 connection with the contamination which has migrated and continues to migrate from
16 defendants' operations and facilities. Plaintiff further seeks, without limitation, recovery of
17 damages for injury to, destruction of, and/or loss of its interests in the one or more contaminated
18 aquifers, water and natural resources, recharge and storage, usage and capacity, inter alia,
19 suffered as a result of said contamination. Notice of commencement of this action is being
20 given to the Director of Toxic Substances Control pursuant to California Health and Safety Code
21 section 25363(e).

22 40. The District seeks contribution and/or indemnity for all response costs under
23 California Health and Safety Code section 25363, which provides that any person who has
24 incurred removal or remedial action costs may seek contribution or indemnity from any
25 responsible party.

26 41. The District brings this action to: (1) require defendants to investigate and clean up
27 the environmental contamination caused or contributed to by defendants, which has migrated and
28 continues to migrate from numerous industrial, commercial and waste disposal sites and facilities

1 within the District; and (2) recover the District's costs, expenses, losses and other damages
2 caused by the environmental contamination which has been released and continues to be released
3 into the environment, and which has migrated and continues to migrate, from defendants'
4 facilities and sites.

5 THIRD CAUSE OF ACTION

6 (Negligence – Against All Defendants)

7 42. The District refers to paragraphs 1 through 39 above, and by this reference
8 incorporates them as though set forth in full.

9 43. Defendants had a duty to use due care in the handling, control, disposal, release,
10 remediation and use of VOC's, and products containing VOC's, at their respective sites.

11 44. The defendants named herein so negligently, carelessly, and/or recklessly handled,
12 controlled, failed to control, disposed, released, remediated or failed to remediate, and used
13 hazardous substances, and products containing hazardous substances, that they contaminated,
14 threatened, and polluted groundwater resources within the District, resulting in the damages
15 alleged in this complaint.

16 45. Defendants, and each of them, among other things, negligently, carelessly, and/or
17 recklessly failed to: (1) prevent spills, leaks, discharges and releases of VOC's through the use of
18 appropriate technology; (2) install and maintain systems to prevent spills, leaks, discharges and
19 releases, and facilitate prompt detection and containment of any spills, leaks, discharges and
20 releases; (3) monitor and discover spills, leaks, discharges and releases as soon as possible; (4)
21 warn those who may be injured as a result of spills, leaks, discharges and releases; and (5) clean
22 up and abate spills, leaks, discharges and releases as thoroughly and quickly as reasonably
23 possible and in a manner necessary to prevent harm and injury to plaintiff and others.

24 46. Defendants undertook to retain consultants to conduct environmental investigations
25 and cleanups, thereby affirmatively undertaking the duty to detect and remediate spills, leaks,
26 discharges and releases of VOC's. Defendants, however, negligently failed to properly discharge
27 these duties.

1 47. The defendants knew, or should have known, that VOC's would spill, leak, discharge
2 and release into the soil and contaminate groundwater.

3 48. By their conduct defendants, and each of them, among other things, are:

4 (a) Causing and/or permitting the discharge of hazardous wastes (VOC's) into
5 groundwater resources, creating conditions of pollution and/or nuisance within the
6 meaning of California Water Code section 13050;

7 (b) Using groundwater in the District for waste disposal, an unreasonable and non-
8 beneficial use of groundwater resources, in violation of California Constitution
9 Article 10, Section 2; and

10 (c) Impairing the District's rights to maintain the quality of groundwater throughout
11 the District.

12 49. As a direct and proximate result of defendants' acts and omissions as alleged herein,
13 the District has incurred within the past three years, is incurring, and will continue to incur,
14 investigation, remediation and treatment costs and expenses required to restore its groundwater
15 resources, and other damages as alleged herein, in an amount to be proved at trial.

16 50. Defendants knew that it was substantially certain that their alleged acts and omissions
17 described above would threaten public health and cause extensive contamination of public
18 drinking water supplies and property damage. Defendants committed each of the above
19 described acts and omissions knowingly, willfully, and with oppression, fraud, and/or malice and
20 with conscious disregard of the health and safety of others, and of the District's rights.

21 51. This conduct is reprehensible, despicable, and was performed in conscious disregard
22 of the known risks of injury to health and property. Defendants acted with willful and conscious
23 disregard of the probable dangerous consequences of that conduct and its foreseeable impact
24 upon the District. Therefore, the District requests an award of exemplary damages in an amount
25 sufficient to punish defendants.

26 **FOURTH CAUSE OF ACTION**

27 **(Nuisance – Against All Defendants)**

28 52. The District realleges paragraphs 1 through 49 of this complaint and incorporates

1 them herein by reference.

2 53. The negligent, reckless, intentional and ultrahazardous activity of the defendants, and
3 each of them, as alleged herein, has resulted in the contamination and pollution of groundwater
4 within the District, and constitutes a nuisance. The contamination and pollution of such
5 groundwater with VOC's is a public nuisance as defined in Civil Code section 3479, Civil Code
6 section 3480, Health and Safety Code section 5410, and Water Code section 13050, and is
7 reasonably abatable and varies over time. The defendants, and each of them, caused, created,
8 and/or assisted in the creation of the nuisance alleged herein.

9 54. The defendants, their agents and employees, handled, controlled, disposed, released
10 and used VOC's, and products containing VOC's, with reckless disregard for human health, the
11 environment, and for the peace, tranquility, and economic well-being of the public, resulting in
12 the nuisance alleged herein.

13 55. The aforesaid nuisance is continuing because it is reasonably abatable and/or because
14 the groundwater contamination herein at issue continues to migrate, move, and spread onto, into
15 and across the subsurface of the District's property and wells, and through one or more
16 contaminated aquifers, and its impact has thus varied, and continues to vary, over time.
17 Defendants, and each of them, have threatened to, and will, unless restrained by this Court,
18 continue to maintain the nuisance by failing to investigate, remove, and remediate the
19 environmental contamination which has migrated and continues to migrate from defendants'
20 operations and facilities, and each and every failure to act has been, and will be, without the
21 consent, against the will, and in violation of the rights of the District. Unless defendants, and
22 each of them, are restrained by order of this Court from continuing their non-responsive course of
23 conduct and failure to abate the contamination which has migrated and continues to migrate from
24 defendants' operations and facilities, it will be necessary for the District to commence many
25 successive actions against defendants, and each of them, to secure compensation for damage
26 sustained, thus requiring a multiplicity of suits.

27 56. The District is specially and adversely affected by the nuisance.

28 57. The nuisance caused by defendants, and each of them, has substantially interfered

1 with and obstructed the District's ability to utilize water resources free from unacceptable health
2 risk, taste, odor, pollution and contamination, and to protect groundwater within its territory from
3 such harm.

4 58. The District owns, holds and/or represents property rights, water rights, and interests
5 damaged by the nuisance. The District's injury is separate and distinct from that of the public.

6 59. The District has not consented to and does not consent to this nuisance. Defendants,
7 and each of them, knew or should have known, that the District would not consent to this
8 nuisance.

9 60. As a direct and proximate result of the nuisance, the District has been damaged
10 within the past three years and is entitled to the compensatory and exemplary damages alleged
11 herein, or to such other appropriate relief as the District may elect at trial, including, but not
12 limited to, equitable relief in the form of an order requiring defendants to abate the nuisance.

13 61. For the reasons alleged in paragraphs 48 and 49, the District is entitled to an award of
14 exemplary and punitive damages against defendants.

15 **FIFTH CAUSE OF ACTION**

16 **(Trespass – Against All Defendants)**

17 62. The District realleges paragraphs 1 through 59, inclusive, of this complaint and
18 incorporates them herein by reference.

19 63. The District is the owner, actual possessor, and/or represents the interests of the
20 owners and/or actual possessors of property rights and interests in the groundwater within its
21 territory, including the right to appropriate and regulate the use of water and the right to protect
22 such groundwater from contamination and pollution. Defendants, their agents and employees,
23 knew or in the exercise of reasonable care should have known, that VOC's are extremely
24 hazardous to groundwater and public water supplies, including the property and other rights of
25 the District and the water users it represents.

26 64. The defendants so negligently, recklessly and/or intentionally spilled, leaked,
27 released, and/or discharged, and failed to properly control, handle, store, contain, and use VOC's,
28 and products containing VOC's, that they proximately caused VOC's to contaminate and trespass

1 upon the District's property and interests as follows:

- 2 (a) The defendants participated in the use, storage, and release of VOC's by owning,
3 controlling, regulating, designing, installing, operating, monitoring, inspecting and
4 testing, or by failing to do so, the uses and storage of VOC's at their respective
5 sites, and thereby proximately caused VOC's to be spilled, leaked, released and
6 discharged into groundwater;
- 7 (b) Defendants retained consultants and negligently controlled and/or directed their
8 cleanup and remediation activities (or the lack thereof), thereby causing and
9 permitting VOC's to contaminate and pollute the District's property, and
10 defendants failed to warn the appropriate entities and individuals, including the
11 District, of known risks, spills, releases and/or leaks, and/or failed to undertake
12 reasonable, appropriate or necessary action to reduce, remediate, or abate VOC
13 groundwater contamination.
- 14 (c) When defendants learned, or reasonably should have learned, that VOC's were a
15 persistent, significant and/or widespread source of groundwater contamination, or
16 threatened to become so, defendants failed to warn the appropriate entities and
17 individuals, including the District, of known risks, spills, releases and/or leaks,
18 and/or failed to undertake reasonable, appropriate or necessary action to reduce,
19 remediate, or abate VOC's and groundwater contamination.

20 65. The contamination of groundwater within the District with VOC's has varied and
21 will vary over time and requires investigation, remediation, abatement, and/or treatment. The
22 District has engaged, is engaging and will engage, in remediation, abatement, investigation,
23 and/or treatment programs and/or in securing replacement water supplies, and has thereby
24 sustained within the past three years, and still is sustaining, and will sustain, the damages alleged
25 herein.

26 66. The defendants, and each of them, caused, created, and/or assisted in the creation of
27 the trespass alleged herein.
28

1 67. For the reasons alleged in paragraphs 48 and 49, the District is entitled to an award of
2 exemplary and punitive damages against defendants.

3 **SIXTH CAUSE OF ACTION**

4 **(Declaratory Relief – Against All Defendants)**

5 68. The District realleges paragraphs 1 through 65, inclusive, and incorporates them
6 herein by reference.

7 69. Defendants knew, or should have known, that VOC's, when used in a foreseeable
8 and intended manner, were dangerous and created an unreasonable and excessive risk of harm to
9 human health and the environment.

10 70. The defendants intentionally, willfully, deliberately and/or negligently failed to
11 properly handle, control, dispose, and release VOC's, such that defendants created substantial
12 and unreasonable threats to human health and the environment, which resulted from the
13 foreseeable and intended use and storage of VOC's and products containing VOC's.

14 71. Among other things, the District must take costly remedial action to remove VOC
15 contamination and/or secure alternative water supplies which will result in substantial costs,
16 expenses and damages within the jurisdiction of this Court.

17 72. Defendants, and each of them, have failed to reimburse the District for the Districts'
18 VOC-related investigation, remediation and cleanup costs and deny any responsibility or liability
19 for these damages and expenses the District will incur in the future.

20 73. An actual controversy exists concerning who is responsible for abating actual or
21 threatened pollution or contamination of groundwater resources within the District by VOC's.

22 74. In order to resolve this controversy, the District seeks an adjudication of the
23 respective rights and obligations of the parties, and other relief to the extent necessary to provide
24 full relief to the District.

25 **PRAYER**

26 WHEREFORE, the District requests judgment against defendants, and each of them,
27 for:

- 28 1. Compensatory damages according to proof;

1 2. Exemplary damages in an amount sufficient to punish defendants and to deter
2 defendants from ever committing the same or similar acts;

3 3. An Order declaring that defendants are liable for the full cost of all remedial and other
4 actions necessary to abate and remove VOC's which are contaminating and threatening the
5 District's property, and for such orders as may be necessary to provide full relief to the District;

6 4. An Order declaring that defendants' VOC contamination constitutes a nuisance, and
7 compelling defendants to abate that nuisance;

8 5. Attorneys' fees to the full extent permitted by law;

9 6. Costs incurred in prosecuting this action, and prejudgment interest to the full extent
10 permitted by law; and

11 7. For such and other further relief as the court may deem just and proper.

12 Dated: April 8, 2005

MILLER, AXLINE & SAWYER
A Professional Corporation

14
15 
16 DUANE C. MILLER
Attorneys for Plaintiff
Orange County Water District

1 **PROOF OF SERVICE BY MAIL**

2 I, the undersigned, declare that I am, and was at the time of service of the paper(s) herein
3 referred to, over the age of 18 years and not a party to this action. My business address is 1050
4 Fulton Avenue, Suite 100, Sacramento, California, 95825, which is located in the county in
5 which this mailing occurred. I am familiar with my office's business practice for collection and
6 processing of correspondence for mailing with the United States Postal Service, and under such
7 practice the correspondence would be deposited with the United States Postal Service, postage
8 pre-paid, the same day in the ordinary course of business.

9 On April 8, 2005, I served the foregoing document(s) described as:

10 **FIRST AMENDED COMPLAINT FOR DAMAGES AND OTHER RELIEF
11 (VOC CONTAMINATION): (1) ORANGE COUNTY WATER DISTRICT ACT;
12 (2) CALIFORNIA SUPERFUND ACT; (3) NEGLIGENCE; (4) NUISANCE; (5)
13 TRESPASS; AND (6) DECLARATORY RELIEF**

14 on the following persons or parties by placing a true copy thereof in a sealed envelope, showing
15 the addresses set forth below, for collection and deposit in the United States Postal Service on
16 that date following ordinary business practices:

17 **SEE ATTACHED LIST**

18 I declare under penalty of perjury under the laws of the State of California and the
19 United States of America that the foregoing is true and correct.

20 Executed on April 8, 2005, at Sacramento, California.

21 
22 **CHRISTINA HISE**

SERVICE LIST

ORANGE COUNTY WATER DISTRICT V. NORTHROP CORPORATION, ET AL.
(ORANGE COUNTY SUPERIOR COURT CASE NUMBER: 04CC00715)

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Attorneys for Plaintiff
Orange County Water District

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ORANGE

ORANGE COUNTY WATER DISTRICT,

Plaintiff,

v.

NORTHROP CORPORATION; NORTHROP
GRUMMAN CORPORATION; AMERICAN
ELECTRONICS, INC.; MAG AEROSPACE
INDUSTRIES, INC.; GULTON
INDUSTRIES, INC.; MARK IV
INDUSTRIES, INC.; EDO CORPORATION;
AEROJET-GENERAL CORPORATION;
MOORE BUSINESS FORMS, INC.; AC
PRODUCTS, INC.; FULLERTON
MANUFACTURING COMPANY;
FULLERTON BUSINESS PARK LLC; and
DOES 1 through 400, inclusive,

Defendants.

CASE NO. 04CC00715

**PLAINTIFF ORANGE COUNTY WATER
DISTRICT'S FIRST AMENDMENT TO
FIRST AMENDED COMPLAINT FOR
DAMAGES**

AND OTHER RELIEF

(VOC CONTAMINATION):

**(1) ORANGE COUNTY WATER
DISTRICT ACT;**

(2) CALIFORNIA SUPERFUND ACT;

(3) NEGLIGENCE;

(4) NUISANCE;

(5) TRESPASS; AND

(6) DECLARATORY RELIEF

1 Plaintiff, Orange County Water District, hereby amends Paragraph 13 of the First
2 Amended Complaint as follows:

3
4 Paragraph 13 of the First Amended Complaint is hereby replaced with the following text:

5 13. Defendant CBS Broadcasting, Inc., successor in interest to
6 CBS, Inc. and formerly known as Columbia Broadcasting Systems,
7 Incorporated, which, at all times relevant herein, did business as
8 Fender Musical Instruments (DOE 45) (hereinafter "Fender") and
occupied several facilities within the relevant scope of the
litigation. Fender released hazardous wastes containing VOCs at
the sites.

9 The following text is hereby added to the end of Paragraph 9 of the First Amended Complaint:

10 Northrop Grumman Systems Corporation (formerly known as
11 Northrop Corporation and Northrop Grumman Corporation), also
owns or operates other properties and/or facilities within the
12 relevant scope of the litigation where hazardous wastes containing
VOCs were released, including 1730 N. Orangethorpe Park,
13 Anaheim, California, and the Anaheim Northrop Heliport.

14 Dated: August 14, 2007

MILLER, AXLINE & SAWYER
A Professional Corporation

16
17 By: 

DUANE C. MILLER
Attorneys for Plaintiff
Orange County Water District